

1 violate it. This claim is frivolous and needs to be
2 dismissed with prejudice and without leave to amend.

3 b. California privacy laws, Civil Code §1798 et sequitur.-

4 this section relates only to governmental agencies or
5 businesses, which collect private information of their
6 customers. Defendants are not governmental agencies and not
7 businesses and Plaintiffs were never their customers,
8 therefore this claim does not relate to the defendants and
9 needs to be dismissed under 12b6.
10

11 c. Pennsylvania privacy act. Defendants are citizens of
12 California, do not have any contacts with Pennsylvania and
13 are not subject to Pennsylvania privacy acts. This claim
14 needs to be dismissed under 12(b)6.
15

16 d. California business and professional code 22577(a) This
17 section does not specify any civil actions, penalties or
18 remedies. This claim needs to be dismissed under 12(b)6.
19

20 e. Electronic communications privacy act- Plaintiffs did not
21 provide any explanation as to what electronic communication
22 they are referring to, what did the defendants do to
23 violate this act and how did it injure the Plaintiffs.
24 this claim needs to be dismissed under 12(b)6.
25

26 f. 18 USC §§2510-22, and the stored communications act. This
27 is a criminal statute, it does not provide for private
28 enforcement and civil remedies. Additionally, there is no

1 explanation how did the defendants violate stored
2 communications act. Additionally this statute relates to
3 electronic interception of oral communications. Here
4 Plaintiffs did not provide a shred of evidence of
5 electronic interceptions of oral communications done by
6 Defendants and therefore this claim fails and needs to be
7 dismissed under 12(b)6.
8

9 g. 18USC §§2701-11 is a criminal statute, that does not
10 provide for private enforcement or civil remedies.
11 Additionally, this statute relates to unlawful access to
12 stored communications. Plaintiffs did not provide any
13 evidence of such access by the defendants. As such this
14 claim needs to be dismissed under 12(b)6.
15

16 h. Cyber Harassment, cyber stalking, etc. in violation of the
17 women's violence act- Plaintiffs did not provide any
18 evidence of cyber stalking or cyber harassment and did not
19 explain how Dr. Taitz, who is a woman and a doctor and her
20 private foundation are violent towards women, which further
21 shows a pattern of complete insanity of this complaint.
22 This claim fails and needs to be dismissed under 12(b)6
23

24 i. Department of justice Reorganization act of 2005.
25 Plaintiffs did not provide any explanation, how department
26 of justice reorganization act relates to Dr. Taitz and her
27 foundation and how did they violate it.
28

1 j. H.R. 3402, titled "prevention of cyber stalking" and
2 numbered §113, §113(a)(3) Plaintiffs did not provide a
3 shred of evidence of Defendants being engaged in cyber
4 stalking and did not provide any explanation, how does this
5 act relates to Defendants.

6 k. Cyber-stalking and cyber-harassment laws in violation of
7 the communications, act 47 USC §223(a)(1)© and
8 §223(h)(1)(B). Again, the complaint does not contain a
9 shred of evidence of cyber stalking by the Defendants. The
10 fact that Defendants published truthful information about
11 the Plaintiffs does not represent cyber stalking. Moreover,
12 47 USC §223 relates to Obscene or harassing telephone calls
13 in the District of Columbia or in interstate or foreign
14 communications. Plaintiffs did not provide a shred of
15 evidence of any such phone calls by the defendants. This
16 claim fails under 12(b)6.

17
18
19 Simply glancing at this smorgasbord of state and federal
20 statutes with no coherent pleading, as to how these statutes are
21 connected to the defendants, how did they violate those statutes
22 and without any plausibility of these statutes being in any way
23 connected to the defendants, show that this count completely
24 fails 12b6 requirement of the claim to be plausible and
25 probable, additionally it is clear, that Plaintiffs are simply
26 throwing a number of statutes at defendants to try to intimidate
27
28

1 the Defendants, to silence them and to quash Defendants first
2 amendment right to free speech and specifically their right to
3 advise the public that the old web site for "Defend Our Freedoms
4 foundation" was taken over by former volunteer webmaster and the
5 pay-pal account was changed, and that the old web site is
6 currently promoting Attorney Berg, who is using as his legal
7 assistant a convicted felon Lisa Liberi.
8

9
10
11 **COUNT TWO-DEFAMATION PER SE, SLANDER AND LIBEL**
12
13

14 To state a claim for defamation, Plaintiff must allege (a)a
15 publication that is (b) false, (c) defamatory, and (d)
16 unprivileged, and (e)has a natural tendency to injury or that
17 causes special damage.

18 Defamation in relation to plaintiff Liberi

19 Plaintiffs are simply making bare allegations in relation to
20 some 14 defendants. They do not provide any clear and concise
21 statement of a specific fact, that would relate to Defendants
22 Taitz and "Defend our Freedoms Foundation", which would
23 constitute a specific statement made by these defendants, that
24 is actually not true. Defendants provided the public with a
25 printout of Liberi's criminal record, which is a true and
26 correct record.

27 Truth is a complete defense to defamation. Exhibit 1 shows that
28 Liberi indeed has an extensive criminal record of 23 criminal

1 charges and 10 criminal convictions of forgery and grand theft.
2 Exhibit 4, 12.23.2010 order and memorandum by judge Robreno
3 stated that Liberi conceded that she is indeed a convicted felon
4 from California. Complaint does not provide any evidence of
5 Taitz ever stating or writing anything about Liberi, which is
6 not part of Liberi's very thick criminal file. Plaintiffs did
7 not provide any evidence of any statement by Taitz, that are not
8 true. Additionally, as exhibits 1-5 point out, Taitz, as the
9 president of the foundation, whose web site was taken over, was
10 privileged in advising her supporters about Liberi's past, which
11 can endanger their donations.

12
13 Same paragraph states that Defendants defamed Ostella. The only
14 factual allegation of any statements by the defendants in
15 regards to Plaintiffs provide regarding Ostella, is truthful
16 information, that she locked Taitz out and took over the old web
17 site. It is in paragraph 67 and 68 of the complaint. This
18 paragraph states that former web master Lisa Ostella is
19 collecting donations under the name Defend Our Freedoms. Taitz
20 warned her donors and supporters that Ostella is no longer
21 working with Defend Our Freedoms Foundation. She advised the
22 donors, that if they want to donate to "Defend Our Freedoms"
23 Foundation, they need to mail the donations to Defend Our
24 Freedoms Foundation at 26302 La Paz, ste 211, Mission Viejo, CA
25 92691. This is a correct statement and does not represent
26 defamation. In his 12.23.2011 order and memorandum judge Robreno
27 stated that Ostella was evasive on the stand and not believable
28 as a witness and that she conceded that she locked Taitz,

1 president of foundation, out of the web site for her foundation,
2 and replaced Taitz pay-pal account with her own Pay-Pal account.

3
4 In paragraph 160 Plaintiffs claim that defendants defamed
5 plaintiff Adams. Plaintiffs lump Taitz with other defendants.
6 Taitz does not know what was said by other defendants, however
7 complaint contains zero evidence of any defamatory statement
8 made by Taitz against Adams.

9
10 Paragraph 161 makes an allegation that defendants defamed Berg,
11 however they do not provide any proof of such allegations. They
12 simply spout bare allegations, without providing any shred of
13 any admissible evidence of any defamatory or slanderous
14 statement by the defendants against Berg.

15
16 Paragraph 162 talks again about Ostella, claiming that she was
17 defamed and that the defendants made false statement about
18 Ostella hijacking Taitz web site and diverting funds. Again, the
19 only evidence they provide is in ¶67, 68, discussed above, where
20 Taitz warns her donors that Ostella no longer works with the
21 Foundation and any donations given to the old website, that was
22 taken over by the former volunteer web master Ostella, would not
23 go to the Foundation but will go to Ostella. As stated
24 previously, 12.23.2010 order by judge Robreno states that
25 Ostella conceded that she indeed locked Taitz out of the old web
26 site for foundation and replaced Taitz pay pal account, which
27 was previously connected to the web site, with her own pay-pal
28 account.

1 In ¶163-166 Plaintiffs claim that Defendants acted with malice
2 and caused Plaintiffs mental anguish and impaired their
3 reputation in the community.

4 As stated above Plaintiffs did not provide any evidence of
5 defamation.

6 The statement about standing in the community is particularly
7 ludicrous. Exhibit 2, a true and correct copy of the transcript
8 of testimony of Officer Liebrich in Liberi's criminal trial,
9 shows that she had 19 criminal charges before she was indicted
10 of 26 criminal charges and convicted of 10 felony charges of
11 forgery and grand theft. 4 felony charges of forgery still show
12 as active on the docket. How can a reputation of an individual
13 with 46 criminal charges in total and 10 felony convictions, be
14 any lower, than what it is, particularly, considering that the
15 Defendants simply provided a printout and record, readily
16 available in public records?

17 In summary, count two does not provide any evidence of
18 defamation. Complaint must allege "sufficient factual matter,
19 accepted as true, to "state a claim of relief that is plausible
20 on its face". Iqbal, 129 S. CT at 1949 (quoting Twombly, 550
21 U.S. at 570. This complaint contains 81 pages of diatribe in
22 relation to 14 defendants, but there is no factual matter, that
23 would show any defamatory statements by the defendants. As such
24 this claim needs to be dismissed with prejudice and without
25 leave to amend.

26 COUNT THREE- FALSE LIGHT INVASION OF PRIVACY
27
28

1 In ¶167-173 Plaintiffs plead False light -invasion of privacy,
2 but again do not provide any evidence sufficient to proceed in
3 this cause of evidence.

4 In ¶168 they state: "defendants defamatory statements about
5 Plaintiffs placed Plaintiffs and their staff in a false-light
6 before the public." Plaintiffs do not plead any specific action
7 by the Defendants and do not provide any specificity, how does
8 it place Plaintiffs' and their staff in false-light before the
9 public.

10 Additionally, Plaintiffs do not have any staff.

11 Evelyn Adams is an elderly lady, who does not work, who did some
12 internet radio shows from her home computer.

13 Ostella is a housewife, who does not have any staff, does not
14 have a permanent job and who offers her services as a web master
15 to some individuals.

16 Liberi is a convicted felon, who was on probation at the time
17 this complaint was filed. Due to her disability she did not work
18 for years and sits on disability.

19 Berg is a solo attorney, who works in a small office and who's
20 only "legal support" comes from this convicted felon Lisa
21 Liberi, who is corresponding with Berg via e-mails and faxes.

22 In ¶169 Plaintiffs state : "the false-light in which Defendants
23 placed Plaintiffs and their staff would be highly offensive to a
24 reasonable person.

25 Again, they do not provide any evidence of "false Light" in
26 ¶170-173 they talk about malice and damages, but again did not
27 provide any evidence, any factual matter beyond bare allegations
28 of false light or malice. Plaintiffs did not provide any

1 admissible evidence to show, that anything published by the
2 defendants was not true and that it placed them in false light.
3 Complaint does not suffice, when it makes "naked assertions"
4 devoid of further factual assertion. Where a complaint fails to
5 meet such standard, it may be dismissed with prejudice. Schmidt
6 v Hermann 614 F. 2d 1221, 1223 (9th Cir. 1980).

7 **COUNT 4 HARASSMENT**

8
9 Harassment is defined as:

- 10
11 • Unlawful violence, such as:
- 12 ○ assault (attempting to cause a violent injury to you)
 - 13 ○ battery (use of force against you) or
 - 14 ○ stalking (repeatedly following or harassing you with the intent to place you in
15 reasonable fear for your safety or your immediate family's safety);*
 - 16 • A credible threat of violence (a statement or actions that reasonably place you in
17 fear for your safety, or the safety of your immediate family); or
 - 18 • Repeated actions (such as following you, making harassing telephone calls, or
19 sending harassing emails) that seriously alarm, annoy, or harass you, and that
20 serve no legitimate purpose and causes you to be extremely emotionally upset
21 (distressed).**

22 * Ann.Cal.C.C.P. § 527.6(b);

23 Defendants never met Plaintiffs Adams, Liberi and Ostela. Defendants met Berg once at
24 a press conference, which was attended by multiple reporters. Plaintiffs did not provide
25 any "factual matter, accepted as true, to state a claim to relief that is plausible on its
26 face" lqbal. Complaint does not provide any factual matter of any battery or assault of
27 the Plaintiffs by the Defendants, any factual matter of any stalking or threat of violence
28

1 whereby count 4 is frivolous and needs to be dismissed with prejudice and without leave
2 to amend. Towards the end of the pleading in count four, similar to count one. Plaintiffs
3 simply throw in a pile a number of statutes without pleading any elements and without
4 any explanation, how do those statutes relate to the Defendants. Yet again, there is no
5 connection:

6 a. 18USC §875(d)- is a criminal statute with no civil remedies

7 b. 47 USC§ 223 no explanation, how does this statute relates
8 to the defendants

9 c. Womens violence act- no shred of evidence of defendants
10 being violent towards women

11 d. Department of Justice reauthorization act- no evidence of
12 any relation to the Defendants

13 e. H.R. 3402 - no evidence of defendants in any way violating
14 this statute

15 COUNT FIVE

16 FALSE DESIGNATION AND DESCRIPTIONS OF FACTS

17 Defendants could not find any legal action under " false
18 designation and description of facts". It does not appear that
19 such cause of action even exists.

20 Additionally, Plaintiffs did not provide any evidence of "false
21 designation and description of facts". Plaintiffs did not
22 provide any evidence, did not plead sufficiently any facts that
23 were described falsely by the defendants

24 In ¶189 Plaintiffs explain, that by "false designation and
25 description of facts " they mean 15 USC §1125, however this
26 statute deals with trademark infringement and relates to state
27 or instrumentality action. Plaintiffs do not have any trademark,
28

1 there was no trademark infringement , no trademark was placed in
2 "false designation or description".

3
4 **in 15 USC 1125**
5 **False designations of origin and false descriptions forbidden**

6 This document contains one section of the U.S. Trademark Act (found in Title
7 15 of the United States Code). This page was last updated in November
8 2005. All of the sections of the Trademark Act are listed on the [Index page](#).
9 A [word index](#) is also available.

10 For more information on trademark law, please see the [Trademark Section](#)
11 [of BitLaw](#).

12 [Previous Section \(§1124\)](#) | [Next Section \(§1126\)](#)

13 **§1125. False designations of origin and false descriptions forbidden**

14 **(a)**

15 Civil action.

16
17 **(1)**

18 Any person who, on or in connection with any goods or services, or any
19 container for goods, uses in commerce any word, term, name, symbol, or
20 device, or any combination thereof, or any false designation of origin, false
21 or misleading description of fact, or false or misleading representation of
22 fact, which--

23 **(A)**

24 is likely to cause confusion, or to cause mistake, or to deceive as to the
25 affiliation, connection, or association of such person with another person, or
26 as to the origin, sponsorship, or approval of his or her goods, services, or
27 commercial activities by another person, or

28 **(B)**

1 in commercial advertising or promotion, misrepresents the nature,
2 characteristics, qualities, or geographic origin of his or her or another
3 person's goods, services, or commercial activities, shall be liable in a civil
4 action by any person who believes that he or she is or is likely to be
5 damaged by such act.

6 **(2)**

7 As used in this subsection, the term "any person" includes any State,
8 instrumentality of a State or employee of a State or instrumentality of a
9 State acting in his or her official capacity. Any State, and any such
10 instrumentality, officer, or employee, shall be subject to the provisions of
11 this Act in the same manner and to the same extent as any
12 nongovernmental entity.

13 **(3)**

14 In a civil action for trade dress infringement under this Act for trade dress
15 not registered on the principal register, the person who asserts trade dress
16 protection has the burden of proving that the matter sought to be protected
17 is not functional.

18 **(b)**

19 Importation. Any goods marked or labeled in contravention of the provisions
20 of this section shall not be imported into the United States or admitted to
21 entry at any customhouse of the United States. The owner, importer, or
22 consignee of goods refused entry at any customhouse under this section
23 may have any recourse by protest or appeal that is given under the customs
24 revenue laws or may have the remedy given by this Act in cases involving
25 goods refused entry or seized.

26 **(c)**

27 Remedies for dilution of famous marks.

28 **(1)**

1 The owner of a famous mark shall be entitled, subject to the principles of
2 equity and upon such terms as the court deems reasonable, to an injunction
3 against another person's commercial use in commerce of a mark or trade
4 name, if such use begins after the mark has become famous and causes
5 dilution of the distinctive quality of the mark, and to obtain such other relief
6 as is provided in this subsection. In determining whether a mark is
7 distinctive and famous, a court may consider factors such as, but not limited
8 to—

9 Yet again Plaintiff did not provide any factual matter to show that this cause
10 of action has any connection to Defendants. As such count 5 needs to be
11 dismissed without leave to amend.

12 **COUNT SIX-INJUNCTIVE RELIEF**

13 Plaintiffs are seeking injunctive relief as a separate count,
14 however Injunctive relief is actually a remedy, not really an
15 independent cause of action. In order to obtain injunctive
16 relief, one needs to demonstrate wrongdoing, that will be
17 subject to injunction.

18 Plaintiffs did not demonstrate any wrongdoing. Truthful
19 statements do not represent wrongdoing.

20 As stated previously, plaintiffs filed this legal action nearly
21 two years ago in a wrong forum, in Pennsylvania. Plaintiffs
22 sought injunctive relief against the defendants and filed
23 motions for TRO five times: three in the District court for the
24 Eastern district of Pennsylvania and twice in the Third Circuit
25 court of Appeals. Plaintiffs were seeking a de facto "gag order"
26 to silence the defendants. No such order was ever granted by
27 either the District court or the court of Appeals. Not only the
28 defendants did not provide any evidence of anything that was not
true and defamatory, but they also failed to show, that they are
entitled to injunctive remedy. For injunctive remedy the
Plaintiffs were supposed to show that the remedy at law will not

1 be adequate, which would necessitate equitable remedy. They were
2 supposed to show irreparable harm to the Plaintiffs, they were
3 supposed to balance the hardships and show that the injunctive
4 remedy would not violate the Public interest. Plaintiffs did not
5 provide any factual matter sufficient to show any wrongdoing to
6 trigger injunctive relief or any elements of injunctive relief.
7 As such this cause of action fails and needs to be dismissed
8 with prejudice and without leave to amend.

9 Defendants demonstrated that that they met their burden under
10 anti-SLAPP statute, Plaintiffs did not meet their burden to show
11 by "**COMPETENT AND ADMISSIBLE EVIDENCE**" a reasonable probability
12 that they will prevail, as such this legal action needs to be
13 dismissed in its' entirety under Anti-SLAPP.

14 **CONCLUSION**

15 **WHEREFORE** Defendants respectfully pray for following relief:

- 16 1. Dismissal of the Complaint in its' entirety as one filed
17 frivolously in SLAPP action with intend to limit and
18 infringe upon defendants' free speech.
19 2. Grant Defendants' attorneys fees
20 3. Grant any other damages that the court finds fair, just and
21 appropriate.

22
23
24
25
26 Dated this 04.25.2011
/s/ Orly Taitz

27 Dr. Orly Taitz, ESQ
28 Attorney for
Defend Our Freedoms
Foundation and

Orly Taitz

DECLARATION OF ORLY TAITZ

I, Orly Taitz, am over 18 years old, I am an officer of this court, I do not suffer from any mental condition and impairment, have personal knowledge of above facts and can attest under the penalty of perjury in regards to following:

1. Criminal record of Plaintiff Lisa Liberi affixed to this motion, is a true and correct public record, readily available for any member of the public.
2. 12.23.2010 Order by judge Robreno, is a true and correct copy of such order available on the docket of this case.
3. Transcript of Testimony of Officer Liebricht is a true and correct copy of such transcript readily available to the public in case People of the State of California v Lisa Liberi Richardson FSB-044914 pp 113-117 Reporters Transcript August 4, 2004, Testimony of Detective Mike Liebrich
4. Sworn affidavit of Linda Belcher, attesting to Lisa Liberi's handling of credit card statements is a true and correct copy of such declaration delivered to me by Linda Belcher, former volunteer political researcher for attorney Philip J. Berg
5. Signed letter from Jeoff Staples, attesting to Lisa Liberi handling credit cards and of the donors, is a true and correct copy of such signed letter delivered to me by Jeoff Staples, former web master for attorney Philip J. Berg.

1 6. I declare under the penalty of perjury that above is true
2 and correct.

3 /s/ Orly Taitz

4 CERTIFICATE OF SERVICE

5 I declare under penalty of perjury that a true and correct copy
6 of the above pleadings was served on 04.25.2011 via ECF on
7 attorney Philip J. Berg. Other defendants on the case were
8 served electronically on 04.25.2011 at following e-mail
9 addresses:

10 Neil Sankey and Sankey firm at

11 nsankey@sankeyfirm.com

12 /s/ Dr. Orly Taitz, ESq